



U.S. Department of Justice

United States Attorney
Southern District of New York

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January 24, 2022

BY ECF

Hon. Paul A. Crotty
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007

Re: *NPR et al. v. CENTCOM*, 21 Civ. 10511 (PAC)

Dear Judge Crotty,

In accordance with the Court's direction in its Initial Pretrial Conference Notification, ECF No. 15, counsel for Plaintiffs National Public Radio, Inc. and Hansi Lo Wang ("Plaintiffs") and Defendant the United States Central Command ("CENTCOM") respectfully submit this joint letter in this action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

This case concerns two FOIA requests submitted by Plaintiffs to CENTCOM in July 2021, seeking records concerning allegations of civilian harm resulting from airstrikes conducted in October 2019 to kill or capture Abu Bakr al-Baghdadi. Plaintiffs filed the complaint in this action on December 8, 2021, ECF No. 1, and Defendant filed an answer on January 12, 2022, ECF No. 14.

The parties have reviewed and discussed the Court's Initial Pretrial Conference Notification and do not believe the Court's standing Civil Case Management Plan is applicable to this matter, as FOIA actions are generally resolved through summary judgment without discovery. *See, e.g., Wood v. Fed. Bureau of Investigation*, 432 F.3d 78, 85 (2d Cir. 2005); *Carney v. Dep't of Justice*, 19 F.3d 807, 812–13 (2d Cir. 1994). Accordingly, the parties are not submitting a Civil Case Management Plan herewith and respectfully request to be excused from that requirement.¹ However, counsel for the parties have discussed the appropriate next steps in this FOIA action, and propose the following:

CENTCOM is the process of completing its searches for records responsive to Plaintiffs' FOIA requests, and expects to complete those searches by mid-February. CENTCOM expects to be in a position to provide Plaintiffs with an estimate of the volume of records potentially

¹ In response to the first question on the Civil Case Management Plan, the parties report that they do not consent to conducting all proceedings in this case before a magistrate judge pursuant to 28 U.S.C. § 636(c).

responsive to the FOIA requests, as well as a proposed schedule for review and processing of those records, by February 23, 2022. The parties will then meet and confer and file a status report on or before March 1, 2022, to advise the Court of the status of their discussions and propose a schedule for further proceedings.

If the Court is amenable to this proposal, the parties believe that the initial pretrial conference presently scheduled for January 26, 2022, at 11:15 a.m., may not be necessary, or may be more productive if rescheduled to a date convenient to the Court after the parties file the proposed status report on March 1, 2022. Counsel for the parties are, of course, happy to appear on January 26, 2022 as scheduled if the Court believes a conference would be useful.

We thank the Court for its consideration of this letter.

Respectfully submitted,

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